IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3903 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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KINJAL KIRAN SHAH

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 3903 of 2002

MR AMIT M PANCHAL for Petitioner No. 1

MR K.P. RAWAL, A.G.P for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 24/04/2002

ORAL JUDGEMENT

Rule. Service of rule is waived by learned A.G.P. Shri K.P. Rawal for the respondent. At the request of the learned advocates, the petition is finally heard today.

2. The petitioner is a student who has passed IIIrd M.B.,B.S. examination and is desirous of pursuing postgraduate studies from M.S University after completion of her internship. It has been submitted by learned advocate Shri Amit M. Panchal appearing for the petitioner that the petitioner apprehends that the respondent Government might take some policy decision whereby the Post-Graduate Medical Education Regulations, 2000 (herinafter referred to as 'the Regulations') may not be strictly adhered to. According to him, the institutions or the Universities, which are imparting education in the field of medicine are bound to follow the Regulations. It has been submitted by him that as regulation 9 of the Regulations was not being followed by the State of Gujarat, Special Civil Application No. 244/2002 was filed by Dr. Pravinkumar Balaprasad Varma praying that the Government be directed to strictly adhere to the provisions of regulation 9 of the Regulations. Similarly, Special Civil Application No. 2957/2001 and other petitions had also been filed on the said subject and ultimately, in Letters Patent Appeal No. 644/2001 filed in the said petitions, this Court directed that the Regulations must be followed and due weightage should be given to the marks secured by the applicant students at their Ist, IInd and IIIrd M.B.,B.S. examinations while considering their cases for admission to post-graduate studies as indicated in the said judgement.

3. Thus, it has been submitted that even this Court has held that the concerned Universities and institutions imparting education in the field of medicine and appropriate Authorities concerned with the education in the field of medicine are bound to follow the Regulations framed by the Medical Council of India.

4. Thus, in a nut shell, it has been prayed that the provisions of regulation 9 should be followed by the respondent in the matter of admission to the post graduate studies in the faculty of medicine from the academic year 2002-2003 and thereafter.

5. In pursuance of notice issued by this Court, an affidavit has been filed on behalf of the respondent. Learned A.G.P. Shri K.P. Rawal for the respondent has very fairly submitted that the Regulations framed by the Medical Council of India are binding upon the Universities/institution and other Authorities who are concerned with imparting education in the field of medicine. Upon perusal of the affidavit-in reply filed

by Mr. J.L. Patel, Deputy Secretary, Health and Family Welfare Department, Sachivalaya, Gandhinagar it is very clear that the submissions made by the petitioner are to be accepted.

6. Looking to the fact that there is no contest by the respondent and as the Regulations are binding upon the respondent, there is no reason for the petitioner to believe that the respondent government shall take any decision which would not be in accordance with the Regulations.

7. In the circumstances, the petition is allowed. The respondent is directed to see that the Regulations are followed in the matter of giving admission to the post graduate studies in the faculty of medicine.

Rule is made absolute with no order as to costs.

(A.R. Dave, J.)

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